


PTO/SB/ 26 (10-00)

Approved for use through 10/31/2002. OMB 0851-0031  
U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

<b>TERMINAL DISCLAIMER TO OBVIATE A DOUBLE PATENTING REJECTION OVER A PRIOR PATENT</b>		Docket Number (Optional) 5010-141-01
<p>In re Application of: John G. ATWOOD et al.          Application No.: 10/691,186          Filed: October 22, 2003          For: THERMAL CYCLER FOR AUTOMATIC PERFORMANCE OF THE POLYMERASE CHAIN REACTION WITH CLOSE TEMPERATURE CONTROL</p> <p>The owner*, <u>Applera Corporation</u> of <u>100</u> percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 to 156 and 173, as presently shortened by any terminal disclaimer, of commonly-owned prior <u>U.S. Patent No. 5,475,610</u> or <u>U.S. Patent No. 6,703,236 B2</u>. Ownership of the present application and the prior patents can be found at Reel 6198, Frames 0316-0327, Reel 6198, Frames 0328-0333, and Reel 6198, Frames 0334-0339 of the U.S. Patent and Trademark Office (USPTO) Assignment Branch records, and by the Change of Name Documents (The Perkin-Elmer Corporation to PE Corporation (NY)) recorded at Reel 012785, Frames 0342-0349 of the USPTO Assignment Branch records, and by the Assignment and Assumption Agreements (PE Corporation (NY) to Applera Corporation) recorded at Reel 013367, Frames 0173-0183, and Reel 013563 Frames 0534-0554, of the USPTO Assignment Branch records. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patents are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.</p> <p>In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 to 156 and 173 of either of the prior patents, as presently shortened by any terminal disclaimer, in the event that one or both of the prior patents later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.</p> <p><input checked="" type="checkbox"/> The undersigned is an attorney or agent of record.</p> <div style="text-align: right;">           Signature          June 22, 2005          Date          Leonard D. Bowersox, Esq.          Typed or printed name       </div> <p><input checked="" type="checkbox"/> Terminal disclaimer fee under 37 CFR 1.20(d) included.</p> <p><b>WARNING:</b> Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.        *Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner).        Form PTO/SB/96 may be used for making this certification. See MPEP § 324.</p>		

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Office, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Box Patent Application, Washington, DC 20231

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. (703) 872-9306 on June 22, 2005.

Sandra Stocklinski

Name (Print)

Signature